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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,658	01/24/2002	Hiromi Nambu	218360US0	9726

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/053,658	Applicant(s) NAMBU ET AL.	
	Examiner Blessing M. Fubara	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-22 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/08/03 & 05/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges receipt of letter filed 05/27/04 and IDS filed 12/08/03 and 05/27/04. Claims 1 and 3-23 are pending.

Action of 12/02/03

According to the interview 12/29/03 the final rejection mailed 12/02/03 is withdrawn because an amendment was filed on 10/29/03, which did not make it to the filed before the action. The amendment filed 10/29/03 is examined. The amendment of 10/29/03 and the amendment of 09/15/03 appear to be essentially the same. Thus the action below addresses the amendment submitted on 10/29/03 as a final rejection.

It is however noted that no remarks accompany the amendment filed 10/29/03 except for indicating where support for the amendment and new claim can be found in the specification. The remarks filed with the amendment filed 09/15/03 will be re-addressed.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The rejection of claims 1, 3 and 6-8 under 35 U.S.C. 102(b) as being anticipated by Guillaume et al. (WO 98/44898) is withdrawn in light of the amendment to claim 1. Therefore, argument relating to the 35 U.S.C. 102(b) anticipation by Guillaume is moot.
3. Claims 1, 3-8, 10 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (JP 61221112).

Yamamoto discloses a water soluble gel composition that comprises 2-50 weight% water-soluble high polymer selected from polyacrylic acid and its salt, polyacrylamide, polyvinyl

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alcohol, polyvinylpyrrolidone and gelatin. The gel composition also contains 1-12 weight% thioglycolic acid or its salt or barium sulfide, water, alkaline agent, filler, flavors and hair-swelling promoter (English abstract). In paragraph 3 of column 1, page 2, Yamamoto uses calcium hydroxide and sodium thioglycolate. The property of a composition cannot be separated from the composition and claim 8 recites the property of the composition. The teaching of Yamamoto meets the limitations of the claims.

1. Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Saettone et al. (FR 2 038 196).

Saettone discloses a depilatory composition comprising thioglycolic acid or salt thereof, Carbopol, basic substance comprising at least one substance that belongs to the group of alkaline hydroxide and alkaline earth hydroxides, coloring substance, preservative and accelerating substance (pages 1-3 of translation). The alkaline or alkaline earth hydroxides are not disclosed as cross-linking agents, but a cross-linking activity cannot be excluded since they are included in the composition and since the cross linking agents recited in instant claim 17 includes alkaline earth hydroxides. Saettone meets the limitations of the claims.

2. Claims 1, 3-8 and 10-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hori et al. (US 4,830,633).

Hori discloses a depilation method and the method comprises coating an aqueous solution or polymer emulsion containing depilatory medicine or agent on hair for hair removal without the painful or unpleasant odor effect (abstract). The depilatory composition comprises film forming polymer, depilatory medicine and additives such as alkali agent, hair swelling accelerating agent, a filler, perfume and coloring agent (column 2, lines 3-10). The film forming

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polymer is selected from the group of polyvinylpyrrolidone, polyacrylamide, polyacrylic acid and salts thereof, polyvinyl alcohol, carboxymethyl cellulose, methyl cellulose, hydroxyethyl cellulose, hydroxypropyl cellulose, gelatin, alginic acid, alginic acid salts, polyethylene glycol, gum arabic, acrylic esters and polyvinyl methyl ether in an amount of 1-70 wt%; 3-20 wt% depilatory medicine selected from the group of thioglycolic acid or its salts; water; 0.1-5 wt% alkali agents selected from the group of ammonium salt, metal salt of organic dicarboxylic acid, potassium hydroxide, calcium hydroxide and sodium hydroxide; urea as hair swelling accelerating agent; glycerin; dioctyl phthalate plasticizer; an silicon dioxide or calcium carbonate or clay or kaolin or aluminum hydroxide (column 2, line 11 to column 3 line 55 and examples 1, 2 and 7 and claims 1, 3, 5, 6, and 8-10). The composition has a viscosity of from 0.1 to 1,000 poise at 30 °C (column 2, line 53). The composition is applied to underarm and allowed to stand for 15 minutes (example 7) and 10 minutes (example 9) and 8 minutes (example 10). Since Hori teaches the same amount of cross-linking agent (calcium hydroxide) and same amounts of hydrophilic polymer as in the instant claim, it is inherent that the depilatory composition of the prior art, Hori would have the same equivalents of cross-linking agent to ionic group of the hydrophilic polymer as recited in instant claim 19. The process of instant claim 20 applies the composition to an area that requires depilation and the process disclosed in Hori meets that limitation. Hori further discloses homo- or and copolymers of acrylic acid or methacrylic acid esters in claim 4. Although, Hori defines such homo- and copolymers as water insoluble, the disclosed polymers meet the limitation of poly(meth)acrylic acid derivative as defined on page 8, lines 21-25 of the instant specification. Thus the teaching of Hori meets the limitations of the claims.

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Claim Rejections - 35 USC § 103

3. Claims 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hori et al. (US 4,830,633).

Hori teaches the composition and process of application of the composition to an area of the body that needs depilation. Application of the composition via the use of a support would be an obvious modification of the application process. Hori does not teach applying the composition to the face. However, hair is known to grow on faces. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare and use the depilatory composition according to the teaching of Hori. One having ordinary skill in the art would have been motivated to apply the composition to the face with the expectation that facial hair would be removed when the composition is peeled off.

4. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the prior art does not teach a depilatory composition where the hydrophilic polymeric compound is at least one selected from the group consisting of an itaconic acid modified polyvinyl alcohol, a sulfonic acid-modified polyvinyl alcohol and maleic acid modified polyvinylalcohol.


5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 Blessing Fubara
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